



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/546,439	04/10/2000	Mikael Linden	442-009325-US(PAR)	3336

7590

01/02/2004

Perman & Green
425 Post Road
Fairfield, CT 06430

EXAMINER

HENEGHAN, MATTHEW E

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/546,439

Applicant(s)

LINDEN ET AL.

Examiner

Matthew Heneghan

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-12 have been examined.

Priority

2. The instant application claims priority to Finland Patent Application No. 990800, filed 12 April 1999.

Information Disclosure Statement

3. The following Information Disclosure Statement(s) in the instant application have been fully considered:

Paper #3, filed 12 June 2000.

Paper #4, filed 8 September 2000.

Drawings

4. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. The figure

describes an implementation of the Wireless Application Protocol, which is well-known in the art.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "1" on page 5, line 7; "26" on page 5, line 32 and page 6, line 1. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "10" has been used to designate both Client in figure 1 and wireless terminal in figures 2 and 3. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "28" and "29" in figure 2. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

8. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) that do not match the description: "27" in figure 2. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

9. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

10. The abstract of the disclosure is objected to because it ends with the phrase "(Figure 4)". Correction is required. See MPEP § 608.01(b).

11. The spacing of the lines of the specification and claims is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.

12. The use of the trademark Nokia® has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 9, and 12, the phrase "can be verified with the help of" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Regarding claim 8, the phrase "to be determined according to use" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "to be determined according to use"), thereby rendering the scope of the claim unascertainable. For purposes of the prior art search, the term is not being viewed as a limitation.

All other claims depend from rejected claims 1 and 9, and include all the limitations of those claims, thereby rendering those dependent claims indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1, 5, 8, 9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent Application No. 848,316 to Angelo et al.

As per claims 1, 8, 9, and 12, the secure information transmission system disclosed by Angelo allows the acquisition of a driver module (such as a BIOS image) via a network that has been digitally signed by its originator (see column 2, lines 46-60). It is inherent that such a module being installed is modified, in order to remove the attached signature (see column 6, line 21 to column 7, line 10).

As per claim 5, BIOS modules are inherently composed of byte-compiled code.

As per claim 11, Angelo discloses that the network element may be a network server.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application No. 848,316 to Angelo et al.

Angelo discloses the use of identifying information in the signature that encrypted using hashes and keys (such as RSA), but does not specify that the identifying information is in the form of a character string.

Official notice is given that the use of character strings as identifying information is well-known in the art, as strings may be used to uniquely identify a sender.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to use character strings as identifying information in digital signatures, in order to uniquely identify a sender.

16. Claims 2-4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application No. 848,316 to Angelo et al. as applied to claims 1 and 9 above, and further in view of U.S. Patent No. 5,418,524 to Fennell.

Angelo does not disclose that software upgrades may be done using wireless equipment.

Fennell discloses the upgrading of terminal software using a radio modem (see abstract), and further suggests that an apparatus for doing so is needed, as alternative methods of upgrading such software requires a large amount of user tasking.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to implement the system disclosed by Angelo using a radio modem, as disclosed by Fennell as alternative methods of upgrading radio modem software requires a large amount of user tasking.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,029,196 to Lenz discloses a system for upgrading client software using an automatic configuration system.

U.S. Patent No. 6,058,478 to Davis discloses an apparatus for upgrading software if it has been digitally signed by an appropriate regulatory authority.

U.S. Patent No. 6,148,387 to Galasso et al. discloses a system for securely updating BIOS services from a remote location.

U.S. Patent No. 6,223,284 to Novoa et al. discloses an apparatus for effecting ROM flashing from a remote location.

U.S. Patent No. 6,230,194 to Frailong et al. discloses a method for upgrading secure interface software.

U.S. Patent No. 6,347,398 to Parthasarathy et al. discloses a method for automatically downloading software from the Internet.

U.S. Patent No. 6,493,594 to Kraml discloses a system for remote software configuration.

U.S. Patent No. 6,609,199 to DeTreville discloses an apparatus for authenticating software being downloaded to an IC device.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E. Heneghan, whose telephone number is (703) 305-7727. The examiner can normally be reached on Monday-Thursday from 8:00 AM - 4:00 PM Eastern Time. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse, can be reached on (703) 308-4789.

Any response to this action should be mailed to:


Commissioner of Patents and Trademarks
Washington, DC 20231

Or faxed to:

(703) 872-9306

Hand-delivered responses should be brought to Crystal Park 2, 2121 Crystal Drive, Arlington, VA 22202, Fourth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2130

Application/Control Number: 09/546,439

Page 10

Art Unit: 2134

MEH

A handwritten signature in black ink, appearing to be 'MEH' followed by a stylized flourish.

December 18, 2003